

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

**IN RE GERALD M. BENSON AND KENNETH L.
SMITH**

2011-1311
(Serial No. 11/061,327)

Appeal from the United States Patent and Trademark
Office, Board of Patent Appeals and Interferences.

**IN RE GERALD M. BENSON AND KENNETH L.
SMITH**

2011-1312
(Serial No. 09/515,978)

Appeal from the United States Patent and Trademark
Office, Board of Patent Appeals and Interferences.

ON MOTION

Before RADER, *Chief Judge*, DYK and O'MALLEY, *Circuit Judges*.

O'MALLEY, *Circuit Judge*.

O R D E R

The Director of the United States Patent and Trademark Office and the appellants jointly move to remand these appeals for further proceedings.

The Director concedes that decisions of the Board of Patent Appeals and Interferences omitted "not" in the final sentence of the claim construction section, such that it should have read "and not otherwise surrounded to any extent by replicated substrate 70." The Director also states that the Board has confirmed that the omissions were in error and create inconsistencies within their respective decisions.

Because the appellants' opening briefs rely on these omissions and the appellants join these motions for remand, we grant the motions to allow the Board to issue corrected decisions. If the appellants timely appeal those corrected decisions, the docketing fees for those appeals will be waived.

Accordingly,

IT IS ORDERED THAT:

The motions are granted for the limited purpose of remanding these appeals to allow the Board to correct the above-noted omissions.

FOR THE COURT

NOV 28 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

NOV 28 2011

JAN HORBALY
CLERK

cc: Sandra K. Nowak, Esq.
Raymond T. Chen, Esq.

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UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

By: L. Bozer Date: 11/28/11